IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Bail Appl..No. 5717 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.5295/2007
CRIME NO.445/07 OF VAIKOM POLICE STATION

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PETITIONER/ACCUSED 1,3,4,6:

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1. SHYAM, S/O. SASI,
KATTUKANDATHIL HOUSE, NASEKADAVU,
UDAYANAPURAM, VAIKOM.

2. ARUN MOHAN,
KUNNAKATTU HOUSE, THALAYOLAPARAMBU, VAIKOM.

3. PRINCE, S/O. MANI,
KAINATH, UDAYANAPURAM, VAIKOM.

4. PRAVEEN (AALU), S/O. GOPI,
VETTICHIRAYIL, UDAYANAPURAM, VAIKOM.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: STATE:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. STATION HOUSE OFFICER,
VAIKOM POLICE STATION.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5717 OF 2007

Dated this the 24th day of September, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1, 3, 4 and 6. Altogether, there are 9 accused persons. Accused 7 and 8 were arrested and they have subsequently been enlarged on bail. Accused No.2 has been granted anticipatory bail by another Bench of this Court as per the order dated 31/8/07 in B.A.No.5295/07. Personal animosity is the alleged motive. Helmet is the alleged dangerous weapon used for the commission of the offence. Allegations are raised, inter alia, under Secs.324 and 308 of the IPC. The nature of the injury has also been read over to me.

2. The learned counsel for the petitioners submits that, at worst, there is scope for an allegation under Sec.324 of the IPC only. Unnecessarily with vexatious intent, allegations

have been raised under Sec.308 of the IPC. The police is obliging the de facto complainant. It is prayed that identical directions, as were issued in favour of the 2nd respondent, may be issued in favour of the petitioners herein also.

3. The learned Public Prosecutor opposes the application. Notwithstanding the opposition, in the light of the facts and circumstances to which I have made a brief reference above, I am satisfied that the petitioners herein can also be released on bail subject to appropriate terms and conditions. In coming to this conclusion, I have considered the nature of the allegations, the nature of the alleged weapon used for the commission of the crime as also the nature of the injury which the victim is shown to have suffered.

4. In the result, this bail application is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 1/10/07. They shall be released on regular bail on their executing bonds for Rs.50,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m.

and 3 p.m. on 2/10/07 and 3/10/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 1/10/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.50,000/- each without any sureties undertaking to appear before the learned Magistrate on 1/10/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judg